



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 7656-99

28 August 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER LCPL, USMC [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was discharged by reason of physical disability so that he will be eligible for benefits under the Montgomery GI Bill program.

2. The Board, consisting of Mses Moidel and Schnittman, and Mr. Bartlett, reviewed Petitioner's allegations of error and injustice on 17 August 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Marine Corps on 24 September 1996. He was diagnosed with bilateral retropatellar pain syndrome (RPPS) during boot camp. After several periods in which the severity of that condition waxed and waned, Navy medical authorities determined that his knees could not withstand the rigors of Marine Corps training, and recommended that separation processing be initiated. A medical record entry dated 2 December 1998, indicates "....Member is being separated from Marine Corp [sic] in two weeks for B/L RPPS." Petitioner was discharged from the Marine Corps on 12 February 1999, with a narrative reason for separation of "PHYSICAL STANDARDS", and a separation code of HFT1, which indicates he failed to meet established physical readiness standards.

d. Petitioner contributed \$1200.00 to the Montgomery GI Bill. He contends, in effect, that he has been denied benefits under that program, as well as the refund of his contributions, because he did not complete three years of continuous active service, and his separation code does not indicate that he was discharged for a qualifying reason, i.e., physical disability, hardship, convenience of the government, or a physical or mental condition not characterized as a disability, which interfered with his performance of duty.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner has failed to submit sufficient relevant evidence to demonstrate that he was unfit for service by reason of physical disability. In this regard, it noted that as a general rule, RPPS is not classified as a physical disability. In Petitioner's case, it appears that he was predisposed to develop knee pain, and that its severity was directly proportional to the amount of rigorous training activity in which he participated. There is no indication in the available records that he sustained significant trauma to his knees during his enlistment. Accordingly, the Board cannot grant his request for discharge by reason of physical disability.

Notwithstanding the foregoing, the Board finds the existence of an injustice. In this regard, it notes that Petitioner's discharge processing was initiated because he suffered from a condition, not a disability, which interfered with his performance of duty; however, he has been denied benefits under the Montgomery GI Bill because his separation code indicates that he was discharged for failing to meet physical readiness standards. The Board concludes that it would be in the interest of justice to amend his narrative reason for separation and separation code to permit him to receive those benefits.


RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was discharged from the Marine Corps on 12 February 1999, by reason of condition, not a disability, interfering with performance of duty, and that he was assigned a separation code of JFV1.

b That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director